

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 838**

Introduced by Lautenbaugh, 18.

Read first time January 08, 2010

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to public contracts; to amend sections  
2 39-8,105, 39-1302, and 60-6,188, Reissue Revised Statutes  
3 of Nebraska; to require certain provisions in highway  
4 and bridge construction and maintenance contracts; to  
5 require identifying signage as prescribed; to harmonize  
6 provisions; to provide a duty for the Revisor of  
7 Statutes; and to repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Contracts with a city or village for the  
2 construction, reconstruction, improvement, maintenance, or repair  
3 of roads, bridges, and their appurtenances shall include the  
4 following provisions:

5           (1) Incentive provisions for early completion of the  
6 project, with such incentive provisions to be determined and  
7 negotiated on a project-by-project basis;

8           (2) Disincentive provisions for late completion of the  
9 project, with such disincentive provisions to be determined and  
10 negotiated on a project-by-project basis; and

11           (3) Provisions requiring that, during the course of  
12 project work taking place within the corporate limits of the city  
13 or village, lane closures be kept to a minimum so that a lane  
14 may be used while it is not under active construction, and that  
15 any improperly closed lane shall result in a fee of one thousand  
16 dollars per day for each day the lane is improperly closed being  
17 charged to the general contractor in charge of the project. An  
18 improperly closed lane also includes any lane closed without the  
19 express permission of the mayor of city manager of the city or  
20 village.

21           Sec. 2. Every general contractor in charge of a highway  
22 or bridge maintenance, repair, or construction zone shall post  
23 signs in such maintenance, repair, or construction zone which  
24 inform motorists of the name and telephone number of the general  
25 contractor in at least four-inch print. The signs shall be placed

1 at intervals of at least one sign per mile in the maintenance,  
2 repair, or construction zone.

3           Sec. 3. Contracts with a county for the construction,  
4 reconstruction, improvement, maintenance, or repair of roads,  
5 bridges, and their appurtenances shall include the following  
6 provisions:

7           (1) Incentive provisions for early completion of the  
8 project, with such incentive provisions to be determined and  
9 negotiated on a project-by-project basis;

10           (2) Disincentive provisions for late completion of the  
11 project, with such disincentive provisions to be determined and  
12 negotiated on a project-by-project basis; and

13           (3) Provisions requiring that, during the course of  
14 project work taking place within the corporate limits of any city  
15 or village, lane closures be kept to a minimum so that a lane  
16 may be used while it is not under active construction, and that  
17 any improperly closed lane shall result in a fee of one thousand  
18 dollars per day for each day the lane is improperly closed being  
19 charged to the general contractor in charge of the project. An  
20 improperly closed lane also includes any lane closed without the  
21 express permission of the mayor or city manager of the city or  
22 village.

23           Sec. 4. Every general contractor in charge of a highway  
24 or bridge maintenance, repair, or construction zone shall post  
25 signs in such maintenance, repair, or construction zone which

1 inform motorists of the name and telephone number of the general  
2 contractor in at least four-inch print. The signs shall be placed  
3 at intervals of at least one sign per mile in the maintenance,  
4 repair, or construction zone.

5           Sec. 5. Section 39-8,105, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           39-8,105 All contracts let by the department for  
8 construction or maintenance upon any interstate bridge, except  
9 contracts for emergency maintenance, whether let pursuant to  
10 an agreement between the department and an adjoining state, or  
11 otherwise, shall be let in the same manner and under the same  
12 conditions provided by sections 39-1348 to 39-1354 and section 7  
13 of this act.

14           Sec. 6. Section 39-1302, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           39-1302 For purposes of sections 39-1301 to 39-1392 and  
17 section 7 of this act, unless the context otherwise requires:

18           (1) Abandon shall mean to reject all or part of the  
19 department's rights and responsibilities relating to all or part of  
20 a fragment, section, or route on the state highway system;

21           (2) Alley shall mean an established passageway for  
22 vehicles and pedestrians affording a secondary means of access  
23 in the rear to properties abutting on a street or highway;

24           (3) Approach or exit road shall mean any highway or ramp  
25 designed and used solely for the purpose of providing ingress or

1 egress to or from an interchange or rest area of a highway. An  
2 approach road shall begin at the point where it intersects with  
3 any highway not a part of the highway for which such approach road  
4 provides access and shall terminate at the point where it merges  
5 with an acceleration lane of a highway. An exit road shall begin at  
6 the point where it intersects with a deceleration lane of a highway  
7 and shall terminate at the point where it intersects any highway  
8 not a part of a highway from which the exit road provides egress;

9 (4) Arterial highway shall mean a highway primarily for  
10 through traffic, usually on a continuous route;

11 (5) Beltway shall mean the roads and streets not  
12 designated as a part of the state highway system and that are  
13 under the primary authority of a county or municipality, if  
14 the location of the beltway has been approved by (a) record of  
15 decision or finding of no significant impact by the federal highway  
16 administration and (b) the applicable local planning authority as a  
17 part of the comprehensive plan;

18 (6) Business shall mean any lawful activity conducted  
19 primarily for the purchase and resale, manufacture, processing,  
20 or marketing of products, commodities, or other personal property  
21 or for the sale of services to the public or by a nonprofit  
22 corporation;

23 (7) Channel shall mean a natural or artificial  
24 watercourse;

25 (8) Commercial activity shall mean those activities

1 generally recognized as commercial by zoning authorities in  
2 this state, and industrial activity shall mean those activities  
3 generally recognized as industrial by zoning authorities in this  
4 state, except that none of the following shall be considered  
5 commercial or industrial:

6 (a) Outdoor advertising structures;

7 (b) General agricultural, forestry, ranching, grazing,  
8 farming, and related activities, including wayside fresh produce  
9 stands;

10 (c) Activities normally or regularly in operation less  
11 than three months of the year;

12 (d) Activities conducted in a building principally used  
13 as a residence;

14 (e) Railroad tracks and minor sidings; and

15 (f) Activities more than six hundred sixty feet from the  
16 nearest edge of the right-of-way of the road or highway;

17 (9) Connecting link shall mean the roads, streets, and  
18 highways designated as part of the state highway system and which  
19 are within the corporate limits of any city or village in this  
20 state;

21 (10) Controlled-access facility shall mean a highway or  
22 street especially designed for through traffic and over, from, or  
23 to which owners or occupants of abutting land or other persons  
24 have no right or easement or only a controlled right or easement  
25 of access, light, air, or view by reason of the fact that their

1 property abuts upon such controlled-access facility or for any  
2 other reason. Such highways or streets may be freeways, or they may  
3 be parkways;

4 (11) Department shall mean the Department of Roads;

5 (12) Displaced person shall mean any individual, family,  
6 business, or farm operation which moves from real property acquired  
7 for state highway purposes or for a federal-aid highway;

8 (13) Easement shall mean a right acquired by public  
9 authority to use or control property for a designated highway  
10 purpose;

11 (14) Expressway shall mean a divided arterial highway for  
12 through traffic with full or partial control of access which may  
13 have grade separations at intersections;

14 (15) Family shall mean two or more persons living  
15 together in the same dwelling unit who are related to each  
16 other by blood, marriage, adoption, or legal guardianship;

17 (16) Farm operation shall mean any activity conducted  
18 primarily for the production of one or more agricultural products  
19 or commodities for sale and home use and customarily producing such  
20 products or commodities in sufficient quantity to be capable of  
21 contributing materially to the operator's support;

22 (17) Federal-aid primary roads shall mean roads, streets,  
23 and highways, whether a part of the state highway system, county  
24 road systems, or city streets, which have been designated as  
25 federal-aid primary roads by the department and approved by the

1 United States Secretary of Transportation and shown on the maps  
2 provided for in section 39-1311;

3 (18) Freeway shall mean an expressway with full control  
4 of access;

5 (19) Frontage road shall mean a local street or road  
6 auxiliary to an arterial highway for service to abutting property  
7 and adjacent areas and for control of access;

8 (20) Full control of access shall mean that the right of  
9 owners or occupants of abutting land or other persons to access or  
10 view is fully controlled by public authority having jurisdiction  
11 and that such control is exercised to give preference to through  
12 traffic by providing access connections with selected public roads  
13 only and by prohibiting crossings or intersections at grade or  
14 direct private driveway connections;

15 (21) Grade separation shall mean a crossing of two  
16 highways at different levels;

17 (22) Highway shall mean a road or street, including the  
18 entire area within the right-of-way, which has been designated a  
19 part of the state highway system;

20 (23) Individual shall mean a person who is not a member  
21 of a family;

22 (24) Interchange shall mean a grade-separated  
23 intersection with one or more turning roadways for travel  
24 between any of the highways radiating from and forming part of such  
25 intersection;

1           (25) Map shall mean a drawing or other illustration or  
2 a series of drawings or illustrations which may be considered  
3 together to complete a representation;

4           (26) Mileage shall mean the aggregate distance in miles  
5 without counting double mileage where there are one-way or divided  
6 roads, streets, or highways;

7           (27) Parking lane shall mean an auxiliary lane primarily  
8 for the parking of vehicles;

9           (28) Parkway shall mean an arterial highway for  
10 noncommercial traffic, with full or partial control of access, and  
11 usually located within a park or a ribbon of park-like development;

12           (29) Relinquish shall mean to surrender all or part  
13 of the rights and responsibilities relating to all or part of  
14 a fragment, section, or route on the state highway system to  
15 a political or governmental subdivision or public corporation of  
16 Nebraska;

17           (30) Right of access shall mean the rights of ingress and  
18 egress to or from a road, street, or highway and the rights of  
19 owners or occupants of land abutting a road, street, or highway or  
20 other persons to a way or means of approach, light, air, or view;

21           (31) Right-of-way shall mean land, property, or interest  
22 therein, usually in a strip, acquired for or devoted to a road,  
23 street, or highway;

24           (32) Road shall mean a public way for the purposes  
25 of vehicular travel, including the entire area within the

1 right-of-way. A road designated as part of the state highway system  
2 may be called a highway, while a road in an urban area may be  
3 called a street;

4 (33) Roadside shall mean the area adjoining the outer  
5 edge of the roadway. Extensive areas between the roadways of a  
6 divided highway may also be considered roadside;

7 (34) Roadway shall mean the portion of a highway,  
8 including shoulders, for vehicular use;

9 (35) Separation structure shall mean that part of any  
10 bridge or road which is directly overhead of the roadway of any  
11 part of a highway;

12 (36) State highway purposes shall have the meaning set  
13 forth in subsection (2) of section 39-1320;

14 (37) State highway system shall mean the roads, streets,  
15 and highways shown on the map provided for in section 39-1311  
16 as forming a group of highway transportation lines for which the  
17 department shall be the primary authority. The state highway system  
18 shall include, but not be limited to, rights-of-way, connecting  
19 links, drainage facilities, and the bridges, appurtenances,  
20 easements, and structures used in conjunction with such roads,  
21 streets, and highways;

22 (38) Street shall mean a public way for the purposes of  
23 vehicular travel in a city or village and shall include the entire  
24 area within the right-of-way;

25 (39) Structure shall mean anything constructed or

1 erected, the use of which requires permanent location on the ground  
2 or attachment to something having a permanent location;

3 (40) Title shall mean the evidence of a person's right to  
4 property or the right itself;

5 (41) Traveled way shall mean the portion of the roadway  
6 for the movement of vehicles, exclusive of shoulders and auxiliary  
7 lanes;

8 (42) Unzoned commercial or industrial area for purposes  
9 of control of outdoor advertising shall mean all areas within six  
10 hundred sixty feet of the nearest edge of the right-of-way of the  
11 interstate and federal-aid primary systems which are not zoned by  
12 state or local law, regulation, or ordinance and on which there is  
13 located one or more permanent structures devoted to a business or  
14 industrial activity or on which a commercial or industrial activity  
15 is conducted, whether or not a permanent structure is located  
16 thereon, the area between such activity and the highway, and the  
17 area along the highway extending outward six hundred feet from and  
18 beyond each edge of such activity and, in the case of the primary  
19 system, may include the unzoned lands on both sides of such road  
20 or highway to the extent of the same dimensions if those lands on  
21 the opposite side of the highway are not deemed scenic or having  
22 aesthetic value as determined by the department. In determining  
23 such an area, measurements shall be made from the furthest or  
24 outermost edges of the regularly used area of the commercial  
25 or industrial activity, structures, normal points of ingress and

1 egress, parking lots, and storage and processing areas constituting  
2 an integral part of such commercial or industrial activity;

3 (43) Visible, for purposes of section 39-1320, in  
4 reference to advertising signs, displays, or devices, shall mean  
5 the message or advertising content of such sign, display, or device  
6 is capable of being seen without visual aid by a person of normal  
7 visual acuity. A sign shall be considered visible even though the  
8 message or advertising content may be seen but not read;

9 (44) Written instrument shall mean a deed or any other  
10 document that states a contract, agreement, gift, or transfer of  
11 property; and

12 (45) Zoned commercial or industrial areas shall mean  
13 those areas within six hundred sixty feet of the nearest edge  
14 of the right-of-way of the Highway Beautification Control System  
15 defined in section 39-201.01, zoned by state or local zoning  
16 authorities for industrial or commercial activities.

17 Sec. 7. Contracts for the construction, reconstruction,  
18 improvement, maintenance, or repair of roads, bridges, and their  
19 appurtenances shall include the following provisions:

20 (1) Incentive provisions for early completion of the  
21 project, with such incentive provisions to be determined and  
22 negotiated on a project-by-project basis;

23 (2) Disincentive provisions for late completion of the  
24 project, with such disincentive provisions to be determined and  
25 negotiated on a project-by-project basis; and

1           (3) Provisions requiring that, during the course of  
 2 project work taking place within the corporate limits of any city  
 3 or village, lane closures be kept to a minimum so that a lane may  
 4 be used while it is not under active construction, and that any  
 5 improperly closed lane shall result in a fee being charged to the  
 6 general contractor in charge of the project of one thousand dollars  
 7 per day for each day the lane is improperly closed. An improperly  
 8 closed lane also includes any lane closed without the express  
 9 permission of the mayor or city manager of the city or village.

10           Sec. 8. Section 60-6,188, Reissue Revised Statutes of  
 11 Nebraska, is amended to read:

12           60-6,188 (1) The maximum speed limit through any  
 13 maintenance, repair, or construction zone on the state highway  
 14 system shall be thirty-five miles per hour in rural areas and  
 15 twenty-five miles per hour in urban areas.

16           (2) Such speed limits shall take effect only after  
 17 appropriate signs giving notice of the speed limit are erected  
 18 or displayed in a conspicuous place in advance of the area where  
 19 the maintenance, repair, or construction activity is or will be  
 20 taking place. Such signs shall conform to the manual and shall  
 21 be regulatory signs imposing a legal obligation and restriction  
 22 on all traffic proceeding into the maintenance, construction, or  
 23 repair zone. The signs may be displayed upon a fixed, variable, or  
 24 movable stand. While maintenance, construction, or repair is being  
 25 performed, the signs may be mounted upon moving Department of Roads

1 vehicles displaying such signs well in advance of the maintenance  
2 zone.

3 (3) The Director-State Engineer may increase the speed  
4 limit through any highway maintenance, repair, or construction  
5 zone in increments of five miles per hour if the speed set  
6 does not exceed the maximum speed limits established in sections  
7 60-6,186, 60-6,187, 60-6,189, 60-6,190, 60-6,305, and 60-6,313.  
8 The Director-State Engineer may delegate the authority to raise  
9 speed limits through any maintenance, repair, or construction  
10 zone to any department employee in a supervisory capacity or may  
11 delegate such authority to a county, municipal, or local engineer  
12 who has the duty to maintain the state highway system in such  
13 jurisdiction if the maintenance is performed on behalf of the  
14 department by contract with the local authority. Such increased  
15 speed limit through a maintenance, repair, or construction zone  
16 shall be effective when the Director-State Engineer or any officer  
17 to whom authority has been delegated gives a written order for  
18 such increase and signs posting such speed limit are erected or  
19 displayed.

20 (4) The Department of Roads shall post signs in  
21 maintenance, repair, or construction zones which inform motorists  
22 that the fine for exceeding the posted speed limit in such zones  
23 is doubled.

24 (5) Every general contractor in charge of a highway  
25 or bridge maintenance, repair, or construction zone shall post

1 signs in such maintenance, repair, or construction zone which  
2 inform motorists of the name and telephone number of the general  
3 contractor in at least four-inch print. The signs shall be placed  
4 at intervals of at least one sign per mile in the maintenance,  
5 repair, or construction zone.

6           Sec. 9. The Revisor of Statutes shall assign:

7           (1) Sections 1 and 2 of this act to Chapter 18, article  
8 17;

9           (2) Section 3 of this act within sections 23-336 to  
10 23-338; and

11           (3) Section 4 of this act within sections 23-339 to  
12 23-342.

13           Sec. 10. Original sections 39-8,105, 39-1302, and  
14 60-6,188, Reissue Revised Statutes of Nebraska, are repealed.